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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,200	04/03/2003	Toshihiro Ichikawa	Y-197	2370
802	7590	04/01/2005	EXAMINER	
DELLETT AND WALTERS P. O. BOX 2786 PORTLAND, OR 97208-2786			BASICHAS, ALFRED	
		ART UNIT	PAPER NUMBER	3749

DATE MAILED: 04/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/089,200	ICHIKAWA ET AL.	
	Examiner Alfred Basichas	Art Unit 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 08 March 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 21-36 is/are rejected.
- 7) Claim(s) 37-40 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/26/02</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. In view of applicant's arguments and further consideration regarding the election of species issued February 9, 2005, the requirement is hereby withdrawn.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 32, 33, and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Lloveras Capilla (6,575,735), which shows all of the claimed limitations. Lloveras Capilla shows, among other things, an ignition actuation mechanism for a lighter including an actuation member 1,3, first and second elastic members (see at least fig. 5) with corresponding first and second spring rates (see at least fig. 6), and wherein the first elastic member is positioned as part of the piezoelectric mechanism (see at least fig. 8).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 21-31, 34, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lloveras Capilla (6,575,735), which discloses substantially all of the claimed limitations. Lloveras Capilla does not specifically recite the claimed range, integral components or the specific material used.

a. As regards the recited ranges (Claims 21-26, 34, and 35), It would have been obvious to one having ordinary skill in the art at the time the invention was made to have incorporated the claimed range into the invention disclosed by Lloveras Capilla, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

b. As regards the recited integral components (Claims 27, 28, and 30), It would have been obvious to one having ordinary skill in the art at the time the invention was made to have incorporated integral components in the invention disclosed by Lloveras Capilla, since it has been held that where constituent parts are combined so as to constitute a unitary whole, the unitary whole is deemed integral. *In re Larson*, 144 USPQ 347.

c. As regards the recited material (Claims 29 and 31), the particular material used is simply a matter dependent on availability and cost. This material is well within the knowledge and ability of one of ordinary skill in the art. Further, applicant has failed to particularly point out any criticality that would require this material over other such materials also well known for such use. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the

invention was made to have incorporated the claimed material into the invention disclosed by Lloveras Capilla, so as to satisfy considerations of availability and cost.

Allowable Subject Matter

8. Claims 37-40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Prior Art

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Saito, Tatsumi, and Li disclose various lighters reflecting the general background of the art. Ichikawa recites many of the claimed limitations, but was not applied as there is common inventorship and no double patenting issues.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred Basichas whose telephone number is 571 272 4871. The examiner can normally be reached on Monday through Friday during regular business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on 571 272 4877. The fax phone numbers for the organization where this application or proceeding is assigned are 703 872 9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Tech Center telephone number is 571 272 3700.

March 25, 2005



Alfred Basichas
Primary Examiner